

AMENDED IN ASSEMBLY MAY 14, 1996

AMENDED IN ASSEMBLY APRIL 25, 1996

AMENDED IN ASSEMBLY APRIL 23, 1996

AMENDED IN ASSEMBLY APRIL 11, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2649

Introduced by Assembly Member Thompson *Members
Thompson, Figueroa, and Sweeney*

February 21, 1996

An act to add Sections 1348.6, 1348.7, and 1348.8 to the Health and Safety Code, ~~relating to health care service plans~~ *and to add Section 10175.5 to the Insurance Code, relating to health coverage.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2649, as amended, B. Thompson. Health care ~~service plans coverage~~: provider incentives: capitation.

Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Under existing law, willful violation of any of these provisions is a misdemeanor.

This bill would prohibit a health care service plan contract with a physician *and surgeon*, physician *and surgeon* group, or other licensed health care practitioner from containing any incentive plan that includes specific payment made directly, in any type or form, to a physician *and surgeon*, physician *and*

surgeon group, or other licensed health care practitioner as an inducement to *deny*, reduce, limit, or ~~change~~ *delay* specific, medically necessary, and appropriate services.

The bill would require a health care service plan to provide to the commission information concerning its physician incentive plans and would require the commissioner to report to the Legislature regarding the incentive plans.

The bill would require capitation arrangements offered to ~~physicians~~ *physician and surgeons*, physician and surgeon groups, or other licensed health care practitioners by a health care service plan to comply with certain requirements.

Existing law provides for the regulation of life and disability coverage, and specifies the contract contents.

This bill would, with certain exceptions, prohibit any disability insurance contract with a physician and surgeon, a physician and surgeon group, or other licensed health care practitioner from containing any incentive plan that includes specific payment as an inducement to deny, reduce, limit, or delay services.

By changing the definition of a crime *applicable to the law regulating health care service plans*, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1348.6 is added to the Health and
- 2 Safety Code, to read:
- 3 1348.6. (a) No health care service plan contract with
- 4 a physician, physician group, or other licensed health care
- 5 practitioner shall contain any incentive plan that includes
- 6 specific payment made directly, in any type or form, to
- 7 a physician, physician group, or other licensed health care

1 practitioner as an inducement to ~~reduce, limit, or change~~
2 ~~deny, reduce, limit, or delay~~ specific, medically
3 necessary, and appropriate services provided with
4 respect to a specific enrollee or *groups of* enrollees with
5 similar *medical* conditions.

6 (b) Nothing in this section shall be construed to
7 prohibit ~~incentive plans contracts~~, as approved by the
8 Department of Corporations; *that contain incentive*
9 *plans* that involve general payments, such as capitation
10 payments, or shared-risk arrangements that are not tied
11 to specific medical decisions involving specific enrollees
12 or *groups of* enrollees with similar *medical* conditions.

13 SEC. 2. Section 1348.7 is added to the Health and
14 Safety Code, to read:

15 1348.7. (a) A health care service plan shall provide
16 the commissioner with information concerning its
17 physician incentive plans. The information shall contain
18 sufficient descriptive information to enable the
19 commissioner to prepare a detailed report to the
20 Legislature regarding these incentive plans. This report
21 shall include the following information:

22 (1) The types of incentive plans.

23 (2) The potential beneficial and adverse impacts of
24 incentive plans on the quality of patient care.

25 (3) The extent of financial risk to which health care
26 service plans expose physicians, including the capitation
27 payment amount, the percentage withheld from
28 physician payment, and the potential bonus a physician
29 may gain.

30 (4) Whether any additional incentive plans should be
31 limited or prohibited.

32 (5) Recommendations on the manner in which
33 meaningful disclosure may be made to employers and
34 consumers.

35 (6) The effect, if any, incentive plans have on liability
36 risk.

37 (b) The commissioner shall seek public input from all
38 interested parties, including health care service plans,
39 employers, consumers, physicians, and malpractice
40 carriers.

1 (c) This report shall be completed no later than
2 December 31, 1997.

3 SEC. 3. Section 1348.8 is added to the Health and
4 Safety Code, to read:

5 1348.8. Any health care service plan contract with a
6 physician, physician group, or other licensed health care
7 practitioner that includes payment by the health care
8 service plan or its contracting entities on a capitation basis
9 shall comply with the following:

10 (a) *The arrangement shall be based upon actuarially*
11 *sound data.*

12 (b) The capitation rate methodology shall include a
13 provision for adjustment based on the demographic
14 characteristics, such as the age and gender, of the enrollee
15 population to be served.

16 ~~(b)~~

17 (c) The capitation arrangement shall offer stop-loss
18 protection to the provider.

19 ~~(e) A primary care physician and surgeon contracting~~
20 ~~with a health care service plan on a capitation basis and~~
21 ~~whose assignment to, or selection by, an enrollee has been~~
22 ~~confirmed by the plan shall be paid capitation payments~~
23 ~~effective on the date of the enrollee's enrollment.~~

24 SEC. 4.—

25 (d) *The contract shall provide that a physician and*
26 *surgeon or physician and surgeon group contracting with*
27 *a health care service plan on a capitation basis shall be*
28 *paid capitation payments effective the date of the*
29 *enrollee's enrollment. If an existing enrollee requests a*
30 *change of physician and surgeon, after initial selection or*
31 *assignment, the new physician and surgeon or physician*
32 *and surgeon group selected by the enrollee shall be paid*
33 *as of the first of the month following the effective date of*
34 *the change and capitation payments to the former*
35 *physician and surgeon or physician and surgeon group*
36 *shall cease as of that date. However, capitation payments*
37 *paid by plans on behalf of Medi-Cal beneficiaries shall be*
38 *paid pursuant to Section 14301 of the Welfare and*
39 *Institutions Code.*

1 SEC. 4. Section 10175.5 is added to the Insurance
2 Code, to read:

3 10175.5. (a) No disability insurance contract with a
4 physician and surgeon, physician and surgeon group, or
5 other licensed health care practitioner shall contain any
6 incentive plan that includes specific payment made in
7 any type or form, to a physician and surgeon, physician
8 and surgeon group, or other licensed health care
9 practitioner as an inducement to deny, reduce, limit, or
10 delay specific, medically necessary, and appropriate
11 services provided with respect to a specific enrollee or
12 group of enrollees with similar medical condition.

13 (b) Nothing in this section shall be construed to
14 prohibit payment arrangements that are not tied to
15 specific medical decisions involving specific insureds or
16 group of insureds with similar medical conditions.

17 SEC. 5. No reimbursement is required by this act
18 pursuant to Section 6 of Article XIII B of the California
19 Constitution because the only costs that may be incurred
20 by a local agency or school district will be incurred
21 because this act creates a new crime or infraction,
22 eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition
25 of a crime within the meaning of Section 6 of Article
26 XIII B of the California Constitution.

27 Notwithstanding Section 17580 of the Government
28 Code, unless otherwise specified, the provisions of this act
29 shall become operative on the same date that the act
30 takes effect pursuant to the California Constitution.